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Attorney for Secured Creditor,
U.S. Bank Trust National Association, as Trustee of the Tiki Series IV Trust, its successors
and/or assigns

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

In Re:	)	CASE NO.: 24-10440
)	
MARIA ANGELES CUERVO,	)	CHAPTER 13
)	
Debtor.	)	OBJECTIONS TO PROPOSED
	)	CHAPTER 13 PLAN AND
	)	CONFIRMATION THEREOF
)	
	)	Hearing Date: 11/13/2024
	)	Time: 10:00 AM
	)	Courtroom: via Tele/Videoconference
	)	Location: via Tele/Videoconference
)	
	)	Judge: Hon. Dennis Montali

TO THE HONORABLE DENNIS MONTALI, UNITED STATES
BANKRUPTCY COURT JUDGE, THE DEBTOR, THE DEBTOR'S COUNSEL, THE
CHAPTER 13 TRUSTEE, AND OTHER INTERESTED PARTIES:

Secured Creditor, U.S. Bank Trust National Association, as Trustee of the Tiki Series
IV Trust, its successors and/or assignees ("**Secured Creditor**"), in the above entitled

1 Bankruptcy proceeding, hereby submits the following Objections to Confirmation of the
2 proposed Chapter 13 Plan filed by Maria Angeles Cuervo (“**Debtor**”) on 09/05/2024 as Docket
3 Number 16.

4 Secured Creditor is entitled to receive payments pursuant to a Promissory Note
5 (“**Note**”), which is secured by a Deed of Trust (“**DOT**”) on the subject property commonly
6 known as 610 WILD OAK DR. WINDSOR, CA 95492 (“**Property**”). Secured Creditor files
7 this Objection to protect its interests.
8

9 **ARGUMENT**

10 Under 11 U.S.C. §1325, the provisions for plan confirmation in a Chapter 13 have been
11 set. Unless otherwise ordered, under 11 U.S.C. § 1326(a)(1), the Debtor shall commence
12 making the payments proposed by the proposed Chapter 13 Plan (“**Plan**”) within 30 days after
13 the Petition is filed. The Plan must comply with all applicable provisions of 11 U.S.C. § 1325
14 to be confirmed. Based on the foregoing and as more fully detailed below, the Amended Plan
15 cannot be confirmed as proposed.
16

17 As of 08/22/202, the amount in default was approximately \$24,046.38, representing
18 monthly payments and late charges due; advances for taxes and insurance, if any; and
19 foreclosure costs and attorneys’ fees incurred with respect to the default.
20
21

22 **I. PLAN PAYMENTS ARE NOT ENOUGH TO PAY ALL DEBTS**

23 The plan does not comply with 11 U.S.C. §1325 and is not feasible because Debtor
24 lacks the disposable income necessary to fund the Plan. Here the Debtor has listed on
25 Schedule I and J net monthly income in the amount of \$564.00. However, the mortgage
26 payment listed on Schedule J is \$135.23 short of the actual amount. The mortgage payment as
27
28

1 of October 1, 2024 is \$1,935.23. Accordingly, Debtor's disposable income is only \$428.77
2 which is insufficient to fund the plan and fully provide for Secured Creditor's claim after
3 factoring in the Trustee's fee and Debtor's Counsel's attorney's fees. The payment to Secured
4 Creditor alone through Debtor's proposed Chapter 13 Plan must be \$400.73 per month. As a
5 result, the proposed Chapter 13 Plan is not feasible. Therefore, the Plan cannot be confirmed.
6
7 11 U.S.C. §1325(a)(6).

8 **CONCLUSION**

9 Any Chapter 13 Plan proposed by the Debtor must provide for and eliminate the
10 Objections specified above in order to be reasonable and to comply with applicable provisions
11 of the Bankruptcy Code. Secured Creditor respectfully requests that confirmation of the
12 proposed Chapter 13 Plan as proposed by the Debtor be denied.
13

14 **WHEREFORE**, Secured Creditor prays as follows

- 15 a. That confirmation of the proposed Chapter 13 Plan be denied;
16
17 b. For such other relief as this Court deems proper.

18
19 Dated: 10/07/2024

GHIDOTTI | BERGER LLP

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21 By: /s/ Shannon Doyle
22 Shannon Doyle, Esq. (SBN 207291)
23 Counsel for Secured Creditor
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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

In Re:	)	CASE NO.: 24-10440
)	
Maria Angeles Cuervo,	)	CHAPTER 13
)	
Debtor.	)	CERTIFICATE OF SERVICE
)	
	)	Judge: Hon. Dennis Montali
)	
)	
)	
)	

CERTIFICATE OF SERVICE

On 10/07/2024, I served the foregoing documents described as OBJECTIONS TO PROPOSED CHAPTER 13 PLAN AND CONFIRMATION THEREOF on the following individuals by electronic means through the Court's ECF program:

Counsel for Debtor:
Evan Livingstone
evanmlivingstone@gmail.com

Chapter 13 Trustee:
David Burchard
TESTECF@burchardtrustee.com

1 U.S. Trustee:
2 Office of the United States Trustee
3 USTPRegion17.SF.ECF@usdoj.gov

4
5 By depositing true copies thereof in the United States mail at Santa Ana, California
6 enclosed in a sealed envelope, with postage paid, addressed as follows:

7 Debtor:
8 Maria Angeles Cuervo
9 610 Wild Oak Dr
Windsor, CA 95492

10
11 I declare under penalty of perjury under the laws of the United States of America that
12 the foregoing is true and correct.

/s/ Shannon Doyle
Shannon Doyle